

REMARKS/ARGUMENTS

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 1, 2, 7-11, 14 canceled claims 6, 12-13, 15-20 and added new claims 21-23. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks. Applicant gratefully appreciates the telephone interview with Examiner Gorden on November 15, 2004.

As to the restriction requirement, applicant again elects the invention of claims 1-16 with traverse, and has currently canceled claims 17-20. Applicant reserves the right to file a divisional application on the unelected claims.

As for the restriction requirement, Applicant believes that the invention of claims 1-16 and 17-20 can be both searched and examined by the same examiner since the inventions clearly are classified in the same classification areas which would necessitate overlapping searches. Thus, forcing two separate applications to be filed can create overlapping searches and possibly different examiner's having to deal with the same issues. Forcing applicant to file a second application would also create an undue time and financial burden on both the Applicant and the patent office. Thus, for these reasons applicant respectfully requests removal of the restriction requirement. At this time Applicant has canceled nonelected claims 17-20.

Claims 1-16 were rejected under sec. 112, second paragraph. Applicant has carefully amended the claims to overcome this rejection. Applicant notes that the term "convex" has been amended in the specification to be "concave" to encompass the invention shown in the drawing figures and what is being claimed. As discussed with the examiner, the claims 1-5, 7-10 have been amended to read on Figures 1-12, claims 11, 14, 21 are intended to cover Figures 13A-17, and new claims 22-23 are intended to encompass Figures 23-34 of the invention. Removal of this rejection is respectfully requested.

Claims 1, 4, 6, 11, 12, and 14-16 were rejected under sec. 102b by Marshall '024. The Marshall '024 reference requires the use of two L-shaped arms each having the same diameters from one end of the arms to the other end, and requires the arms be attached about a lower portion of the handgrip of the golf club clearly below the top end 5 of the handgrip as shown in the figures.

Subject independent amended claims 1 and 11 and new independent claim 21 claim substantial structural features that are clearly not described, taught, nor suggested by this reference. For example, the **“an attachment socket for attaching the device to a top upper end of the hand grip portion above the shaft of the golf club, the shaft and the hand grip portion having a longitudinal axis and fits as a cap over the top upper end ; and a single planar plate having a substantially flat upper surface and a substantially flat lower surface, the single planar plate extending above the attachment socket, the single planar plate having a narrow proximal end and wider distal end, the narrow proximal end being connected to the attachment socket by a stem portion, the stem portion being fixably bent at a first angle and fixably twisted at a second angle relative to the longitudinal axis of the hand grip and the golf club shaft so that the wider distal end of the single planar plate rests against one lower inner forward forearm of a golfer, the device not having other portions for contacting against other body portions of the golfer, the first angle being different from the second angle”**, claim 1, and similarly claimed in claims 11 and 22, are clearly not described, taught or suggested by this reference.

Clearly, Figure 12 of the subject invention shows the claimed **“cap over the top end”** of the **“hand grip”** which is different from Marshall, Jr. which shows an attachment substantially down from the top end of their hand grip.

Furthermore, Figures 9A and 9B of the subject invention clearly shows the claimed two different angles (one a **“bend”** and one a **“twist”**) which is clearly not shown, described or taught by Marshall Jr.

Furthermore, Figures 19-21 of the subject invention clearly shows that the claimed “device not having other portions(than the “wider distal end of the single planar plate”) for contacting against other body portions of the golfer...” Clearly, Marshall shows body contacts in plural places in Figures 4-6.

Furthermore, features of the dependent claims such as the “bent angle” being “approximately 45 degrees” and the “twisted angle” being “approximately 15 degrees” as claimed in subject claims 8-10, 21 and 23 are not described, taught or suggested by this reference.

Still furthermore, the attachment “plate” and “threaded screw” of claims 2 and 7 are also not described, taught or suggested by this reference. **Thus, removal of this reference is respectfully requested.**

Claims 1, 4, 6, 8-12 and 14-15 were rejected under sec. 102b by Vasquez ‘073. This reference has already been cited as known prior art on page 2 of the background section of the subject invention. Again, this reference requires an attachment device be in contact against BOTH THE RIGHT AND LEFT FOREARMS, which is substantially and structurally different from the subject invention claims which require contact with ONLY ONE FOREARM at a time. Independent amended claims 1 and 11 and new independent claim 22 clearly set forth that **“the device (does) not hav(e)ing other portions for contacting against other body portions of the golfer...” Thus, these claimed features are not described, taught or suggested by this reference.**

Applicant strongly disagrees with the examiner’s statements that “Vasquez discloses the plates may be adjusted to any angle.....”

First of all, no where does Vasquez describe, teach or suggest the claimed **“single planar plate having a substantially flat upper surface and a substantially flat lower surface, the single planar plate having a narrow proximal end attached to the first stem portion, and a wider distal end having a concave edge....” As claimed in all the independent claims 1, 11 and 22.**

Second, the subject invention has fixed “bent angle(s)” and “twisted angles” for the “stem portion” of the claimed invention, and is not some variably adjustable contraption as is required by the examiner’s statement “may be adjusted....”

Furthermore, features of the dependent claims such as the “bent angle” being “approximately 45 degrees” and the “twisted angle” being “approximately 15 degrees” as claimed in subject claims 8-10, 21 and 23 are not described, taught or suggested by this reference.

Still furthermore, the attachment “plate” and “threaded screw” of claims 2 and 7 are also not described, taught or suggested by this reference. **Thus, removal of this reference is respectfully requested.**

Claims 2, 3, 5 and 13 were rejected under section 103 as being unpatentable over Marshall in view of Lin ‘663. For the above stated reasons this reference DOES NOT OVERCOME the deficiencies to Marshall cited above. There is no “single planar plate” and “bent” and “twisted” ...”stem portion” as claimed in this reference.

Furthermore, applicant strongly disagrees with the examiner’s mischaracterization that “Lin teaches a golfing device comprising a threaded collar.....”, and that this feature is covered by the claimed invention.

Subject claims 2 and 7 have been amended to include **“the device is removably affixable to the golf club by the attachment socket by rotating an exterior end of an adjustment screw so that the screw threads through a side hole in the attachment socket so that a clamp plate on an inner end of the adjustment screw abuts and tightens against a side of the hand grip portion of the golf club to secure the golf training device to the hand grip portion of the golf club.....”** Clearly, these features are not described, taught or suggested by the “threaded collar” of Lin. **Thus, removal of this reference is respectfully requested.**

The mere fact that someone in the art can rearrange parts of a reference device to meet the terms of a claim is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for someone of ordinary skill in the art, without the benefit of the inventor’s specification to make the necessary changes in the reference device.


There is no teaching, nor suggestion for modifying the references of record to include all the novel features of the amended claims. Under well recognized rules of the MPEP (for example, section 706.02(j)), the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior

art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438(Fed. Cir. 1991).

Applicant contends the references cannot be modified to incorporate the features of subject claims 1-5, 7-11, 14 and 21-23 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to Applicant to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination.

In view of the foregoing considerations, it is respectfully urged that claims 1-5, 7-11, 14 and 21-23 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;



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Date

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